



## President's statement

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### Approval of enterprise agreements – genuine agreement – Statement of Principles

Justice Hatcher, President

Sydney, 3 March 2023

[1] On 6 December 2022 the *Fair Work Legislation Amendment (Secure Jobs Better Pay) Act 2022* (the Secure Jobs Better Pay Act) received Royal Assent. Relevantly, the Secure Jobs Better Pay Act amends the *Fair Work Act 2009* (Fair Work Act), the *Fair Work (Registered Organisations) Act 2009* and the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

[2] On 8 December 2022, I issued a [Statement](#) setting out the Commission's approach to the implementation of the Secure Jobs Better Pay Act changes. That Statement noted that the Secure Jobs Better Pay Act makes a number of significant changes to the enterprise bargaining and enterprise agreement approval processes including inserting new section 188B which requires the Commission to 'make a statement of principles for employers on ensuring that employees have genuinely agreed to an enterprise agreement' (statement of principles). These amendments will commence on 6 June 2023, or an earlier date to be fixed by proclamation.

[3] On 18 January 2023, I issued a further [Statement](#) setting out a draft timetable for the Commission to make the new Statement of Principles including the consultation process to be conducted by myself, Deputy President Asbury and Deputy President Masson. The statement invited parties to provide submissions and feedback regarding the proposed draft timetable by Wednesday, 25 January 2023.

[4] On 30 January I issued a further [Statement](#) varying the proposed timetable to provide parties with the opportunity to file reply submissions as requested by Australian Industry Group on 25 January 2023. In that Statement I noted that the actual filing dates for submissions and submissions in reply will be set out in the Statement to be issued in the week commencing 27 February 2023.

[5] On 6 February 2023 I published a staff [discussion paper](#) to assist with the conferences to be held with interested parties on 14 and 15 February 2023. The discussion paper set out the amendments to the Fair Work Act that require that the Commission to make the Statement of Principles. Conferences with interested parties, all of which were conducted by myself together with Deputy President Asbury and Deputy President Masson, were held as follows:

- Melbourne (10.00am Tuesday 14 February)
- Sydney (10.00am Wednesday 15 February), and
- Online via Microsoft Teams (2.00pm Wednesday 15 February)

[6] Separate consultation was undertaken with the peak councils, namely the Australian Industry Group, the Australian Council of Trade Unions, the Australian Chamber of Commerce and Industry and the Council of Small Business Organisations of Australian.

[7] Following the consultation process and taking into account the views of the peak councils and other interested parties received during that process, the Commission has developed a draft Statement of Principles. The draft Statement of Principles is published in conjunction with this statement.

[8] I confirm the dates (set out in the table below) for interested parties to make submissions in relation to the draft Statement of Principles. I invite parties to review the draft Statement of Principles and provide submissions in accordance with the following timetable:

<b>Date</b>	<b>Task or event</b>
3 March 2023	Statement with draft Statement of Principles published for comment
30 March 2023	Closing date for submissions in relation draft Statement of Principles
13 April 2023	Closing date for optional submissions in reply following initial submissions filed on 30 March 2023.
w/c 8 May 2023	Final Statement of Principles (as made) published on website and lodged with the Office of Parliamentary Counsel for registration
Late May 2023	Final Statement of Principles registered with the Federal Register of Legislation published on the Commission's website
6 June 2023	Statement of Principles will commence operation

[9] Submissions should be sent to [consultation@fwc.gov.au](mailto:consultation@fwc.gov.au). The Commission will publish any submissions received in relation to the Statement of Principles, as it does for all matters of public interest and instruments of broad application. This ensures that all interested parties are kept informed of the progress of this matter. Parties filing submissions in this matter should take this into account when filing. A dedicated [statement of principles on genuine agreement in bargaining](#) webpage has been established.

[10] Interested parties are encouraged to subscribe to receive notifications on the [subscription services page](#) of the Commission's website. Any questions about the contents of this Statement or the Commission's implementation of the Secure Jobs Better Pay Act can be sent to [consultation@fwc.gov.au](mailto:consultation@fwc.gov.au).

## **PRESIDENT**

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